

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION

EMZILE LEE WILBURN,

Plaintiff,

vs.

CORRECTIONAL MEDICAL SYSTEMS
and SUSAN SINGER,

Defendants.

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Case No. 4:06CV01828 ERW

ORDER

This matter is before the Court upon Emzile Lee Wilburn's motion to proceed in forma pauperis on appeal [Doc. #50].

Title 28 U.S.C. § 1915 (g)

Title 28 U.S.C. § 1915(g) provides that a prisoner may not bring an appeal in forma pauperis if "on 3 or more [earlier] occasions, . . . [the prisoner has] brought an action or appeal in a court of the United States that was dismissed on the grounds that it is frivolous, malicious, or fails to state a claim upon which relief may be granted, unless the prisoner is under imminent danger of serious physical injury."

Discussion

A review of this Court's files indicates that this Court has previously dismissed three of plaintiff's cases as frivolous. See Wilburn v. City of St. Louis, No. 4:07-CV-2043 MLM (E.D. Mo.); Wilburn v. St. Louis City Justice Center, No. 4:07-CV-1444 DJS (E.D. Mo.); and Wilburn v. Friscella, No. 4:07-CV-705 RWS (E.D. Mo.). Furthermore, there is nothing in the case file that would indicate that plaintiff is under "imminent danger of serious physical injury." Because plaintiff has had three previous cases dismissed as frivolous, he must pay the full \$455 filing fee for an appeal.

See In re Tyler, 110 F.3d 528 (8th Cir. 1997). Therefore, the Court will deny plaintiff's motion to proceed in forma pauperis on appeal.

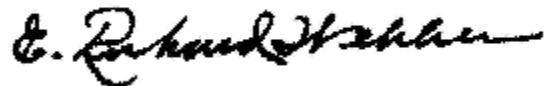
Accordingly,

IT IS HEREBY ORDERED that plaintiff's motion for leave to proceed in forma pauperis on appeal [Doc. #50] is **DENIED**.

IT IS FURTHER ORDERED that within thirty (30) days from the date of this order, plaintiff shall pay to this Court the full \$455 filing and docketing fees for filing an appeal. Plaintiff is instructed to make his remittance payable to "Clerk, United States District Court," and to include upon it: (1) his name; (2) his prison identification number; (3) the case number; and (4) that the remittance is for the appeal of the instant action.

IT IS FINALLY ORDERED that plaintiff shall file any future documents or pleadings in connection with his appeal directly with the United States Court of Appeals for the Eighth Circuit.

So Ordered this 16th Day of July, 2008.



E. RICHARD WEBBER
UNITED STATES DISTRICT JUDGE